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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/655,131	09/05/2000	Maurice Clarence Kemp	MORN-0006 (108347.00017)	7549

7590

06/28/2002

T Ling Chwang
Jackson Walker LLP
2435 North Central Expressway
Suite 600
Richardson, TX 75080

EXAMINER

PAK, JOHN D

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 06/28/2002 4/

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/655,131

Applicant(s)

KEMP et al.

Examiner

Pak, J.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-58 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ | 6) <input type="checkbox"/> Other: |

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Claims 1-58 are pending in this application.

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13, drawn to an acidic composition with specific acidity and normality requirements.
- II. Claims 14-56, drawn to acidic compositions prepared by various mixing methods, with no specific acidity and/or normality requirements.
- III. Claims 57-58, drawn to method of preparing an acidic composition comprising dissolving or suspending an organic acid in water, adding a metal base, adding regenerating acid sufficient to ensure complete regeneration of the organic acid from its metal salt, and removing undissolved solid, or a similar method wherein the organic acid and metal base are substituted for metal salt of an organic acid.

Applicant is further required to elect single disclosed species as follows.

In the event Group I is elected, applicant is further required to elect for examination purposes a single disclosed species of (i) monovalent or polyvalent cation such as magnesium or zinc, (ii) organic acid such as acetic acid or lactic acid, **and** (iii) anion of strong oxyacid such as H_2SO_4 .

In the event Group II is elected, applicant is further required to elect for examination purposes the specific **regenerating acid** such as HCl or HMnO_4 , **base** such as calcium carbonate, **organic acid** such as acetic acid or lactic acid, **and/or metal salt of organic acid** such as magnesium acetate that are used to arrive at a final single specific composition.

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In the event Group III is elected, applicant is further required to elect for examination purposes the specific components that are used to arrive at the final composition, in the same manner as explained above for Group II.

The three inventions as set forth above are distinct, each from the others, as being directed to separate inventive subjects for inventive effort. Group I is plainly distinct due to the various specific requirements of pH, normality and biocidal activity. Group II reads on various acidic compositions that can be made by various processes, and the multiple processes by which the same HAMO composition can be made is evidence that the composition can be made by materially distinct processes. Groups II and III are thereby distinct.

Classification for each of the inventions runs the gamut of classes and subclasses in Class 424, 514 and 422, depending on the specific metal, acid and base. In view of the breadth of coverage involving virtually any and all organic acids and metals, search and examination of just one of the invention groups would already be of serious burden. Search and examination of more than one invention would place an undue burden on the Examiner if the restriction were not required.

For these reasons of distinctness and undue burden the restriction requirement is deemed to be proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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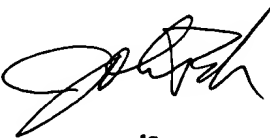
Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A facsimile center has been established in Technology Center 1600. The hours of operation are Monday through Friday, 8:45 AM to 4:45 PM. The telecopier numbers for accessing the facsimile machines are (703) 308-4556 or (703) 305-3592.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Pak whose telephone number is (703) 308-4538. The Examiner can normally be reached on Monday through Thursday from 8:00 AM to 5:30 PM. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. José Dees, can be reached on (703) 308-4628.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1235.



JOHN PAK
PRIMARY EXAMINER
GROUP 1000